

HOUSE BILL 465

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Emily Kane

AN ACT

RELATING TO CONTROLLED SUBSTANCES; DECREASING PENALTIES FOR
POSSESSION OF MARIJUANA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-31-23 NMSA 1978 (being Laws 1972,
Chapter 84, Section 23, as amended) is amended to read:

"30-31-23. CONTROLLED SUBSTANCES--POSSESSION
PROHIBITED.--

A. It is unlawful for a person intentionally to
possess a controlled substance unless the substance was
obtained pursuant to a valid prescription or order of a
practitioner while acting in the course of professional
practice or except as otherwise authorized by the Controlled
Substances Act. It is unlawful for a person intentionally to
possess a controlled substance analog.

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underscored material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 B. A person who violates this section with respect
2 to:

3 (1) one ounce or less of marijuana is subject
4 to a civil penalty of fifty dollars (\$50.00); and, for a second
5 or subsequent offense, guilty of a petty misdemeanor and,
6 notwithstanding the provisions of Section 31-19-1 NMSA 1978,
7 shall be punished by a fine of up to one hundred dollars
8 (\$100);

9 (2) more than one ounce and up to four ounces
10 of marijuana, is subject to a civil penalty of up to one
11 hundred dollars (\$100); and, for a second or subsequent
12 offense, guilty of a petty misdemeanor and, notwithstanding the
13 provisions of Section 31-19-1 NMSA 1978, shall be punished by a
14 fine of up to two hundred dollars (\$200);

15 (3) more than four ounces and up to eight
16 ounces of marijuana, is guilty of a misdemeanor and,
17 notwithstanding the provisions of Section 31-19-1 NMSA 1978,
18 shall be punished by a fine of up to three hundred dollars
19 (\$300); or

20 (4) more than eight ounces marijuana, is
21 guilty of a fourth degree felony and shall be sentenced
22 pursuant to the provisions of Section 31-18-15 NMSA 1978.

23 [~~B.~~] C. A person who violates this section with
24 respect to:

25 (1) one ounce or less of [~~marijuana or~~]

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1 synthetic cannabinoids is, for the first offense, guilty of a
2 petty misdemeanor and shall be punished by a fine of not less
3 than fifty dollars (\$50.00) or more than one hundred dollars
4 (\$100) and by imprisonment for not more than fifteen days, and,
5 for the second and subsequent offenses, guilty of a misdemeanor
6 and shall be punished by a fine of not less than one hundred
7 dollars (\$100) or more than one thousand dollars (\$1,000) or by
8 imprisonment for a definite term less than one year, or both;

9 (2) more than one ounce and less than eight
10 ounces of [~~marijuana or~~] synthetic cannabinoids is guilty of a
11 misdemeanor and shall be punished by a fine of not less than
12 one hundred dollars (\$100) or more than one thousand dollars
13 (\$1,000) or by imprisonment for a definite term less than one
14 year, or both; or

15 (3) eight ounces or more of [~~marijuana or~~]
16 synthetic cannabinoids is guilty of a fourth degree felony and
17 shall be sentenced pursuant to the provisions of Section
18 31-18-15 NMSA 1978.

19 [~~G.~~] D. A minor who violates this section with
20 respect to the substances listed in this subsection is guilty
21 of a petty misdemeanor and, notwithstanding the provisions of
22 Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be punished by a
23 fine not to exceed one hundred dollars (\$100) or forty-eight
24 hours of community service. For the third or subsequent
25 violation by a minor of this section with respect to those

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1 substances, the provisions of Section 32A-2-19 NMSA 1978 shall
2 govern punishment of the minor. As used in this subsection,
3 "minor" means a person who is less than eighteen years of age.
4 The provisions of this subsection apply to the following
5 substances:

- 6 (1) synthetic cannabinoids;
- 7 (2) any of the substances listed in Paragraphs
8 (20) through (25) of Subsection C of Section 30-31-6 NMSA 1978;
9 or
- 10 (3) a substance added to Schedule I by a rule
11 of the board adopted on or after [~~the effective date of this~~
12 March 31, 2011 ~~act~~] if the board determines that the
13 pharmacological effect of the substance, the risk to the public
14 health by abuse of the substance and the potential of the
15 substance to produce psychic or physiological dependence
16 liability is similar to the substances described in Paragraph
17 (1) or (2) of this subsection.

18 [~~D-~~] E. Except pursuant to Subsections B, C and G
19 of this section, and for those substances listed in Subsection
20 [~~E~~] F of this section, a person who violates this section with
21 respect to any amount of any controlled substance enumerated in
22 Schedule I, II, III or IV or a controlled substance analog of a
23 substance enumerated in Schedule I, II, III or IV is guilty of
24 a misdemeanor and shall be punished by a fine of not less than
25 five hundred dollars (\$500) or more than one thousand dollars

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1 (\$1,000) or by imprisonment for a definite term less than one
2 year, or both.

3 ~~[E-]~~ F. A person who violates this section with
4 respect to phencyclidine as enumerated in Schedule III or a
5 controlled substance analog of phencyclidine; methamphetamine,
6 its salts, isomers or salts of isomers as enumerated in
7 Schedule II or a controlled substance analog of
8 methamphetamine, its salts, isomers or salts of isomers;
9 flunitrazepam, its salts, isomers or salts of isomers as
10 enumerated in Schedule I or a controlled substance analog of
11 flunitrazepam, including naturally occurring metabolites, its
12 salts, isomers or salts of isomers; gamma hydroxybutyric acid
13 and any chemical compound that is metabolically converted to
14 gamma hydroxybutyric acid, its salts, isomers or salts of
15 isomers as enumerated in Schedule I or a controlled substance
16 analog of gamma hydroxybutyric acid, its salts, isomers or
17 salts of isomers; gamma butyrolactone and any chemical compound
18 that is metabolically converted to gamma hydroxybutyric acid,
19 its salts, isomers or salts of isomers as enumerated in
20 Schedule I or a controlled substance analog of gamma
21 butyrolactone, its salts, isomers or salts of isomers; 1-4
22 butane diol and any chemical compound that is metabolically
23 converted to gamma hydroxybutyric acid, its salts, isomers or
24 salts of isomers as enumerated in Schedule I or a controlled
25 substance analog of 1-4 butane diol, its salts, isomers or

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1 salts of isomers; or a narcotic drug enumerated in Schedule I
2 or II or a controlled substance analog of a narcotic drug
3 enumerated in Schedule I or II is guilty of a fourth degree
4 felony and shall be sentenced pursuant to the provisions of
5 Section 31-18-15 NMSA 1978.

6 ~~[F-]~~ G. Except for a minor as defined in Subsection
7 ~~[G]~~ D of this section, a person who violates Subsection A of
8 this section while within a posted drug-free school zone,
9 excluding private property residentially zoned or used
10 primarily as a residence and excluding a person in or on a
11 motor vehicle in transit through the posted drug-free school
12 zone, with respect to:

13 (1) one ounce or less of marijuana or
14 synthetic cannabinoids is, for the first offense, guilty of a
15 misdemeanor and shall be punished by a fine of not less than
16 one hundred dollars (\$100) or more than one thousand dollars
17 (\$1,000) or by imprisonment for a definite term less than one
18 year, or both, and for the second or subsequent offense, is
19 guilty of a fourth degree felony and shall be sentenced
20 pursuant to the provisions of Section 31-18-15 NMSA 1978;

21 (2) more than one ounce and less than eight
22 ounces of marijuana or synthetic cannabinoids is guilty of a
23 fourth degree felony and shall be sentenced pursuant to the
24 provisions of Section 31-18-15 NMSA 1978;

25 (3) eight ounces or more of marijuana or

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1 synthetic cannabinoids is guilty of a third degree felony and
2 shall be sentenced pursuant to the provisions of Section
3 31-18-15 NMSA 1978;

4 (4) any amount of any other controlled
5 substance enumerated in Schedule I, II, III or IV or a
6 controlled substance analog of a substance enumerated in
7 Schedule I, II, III or IV, except phencyclidine as enumerated
8 in Schedule III, a narcotic drug enumerated in Schedule I or II
9 or a controlled substance analog of a narcotic drug enumerated
10 in Schedule I or II, is guilty of a fourth degree felony and
11 shall be sentenced pursuant to the provisions of Section
12 31-18-15 NMSA 1978; and

13 (5) phencyclidine as enumerated in Schedule
14 III, a narcotic drug enumerated in Schedule I or II, a
15 controlled substance analog of phencyclidine or a controlled
16 substance analog of a narcotic drug enumerated in Schedule I or
17 II is guilty of a third degree felony and shall be sentenced
18 pursuant to the provisions of Section 31-18-15 NMSA 1978."

19 SECTION 2. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2013.